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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed November 30, 2005. In the Office Action, the Examiner notes that claims 1-25 are pending and rejected. By this response, the Applicants have amended claims 1-3, 8, 22 and 23.

In view of both the amendments presented above and the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicant believes that all of the claims are now in allowable form.

It is to be understood that Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

Amendments to the Claims

By this response, the Applicants have amended claims 1-3, 8, 22 and 23. The amendments to the claims are fully supported by the Application as originally filed.

For example, the amendments to claims 1, 8, 22 and 23 are supported at least by page 48, lines 9-12 and 16-18; page 49, lines 14-19; page 47, line 10, to page 48, line 5; page 64, lines 10-15; page 75, line 19, to page 76, line 7; and page 122, line 3, to page 123, line 18. The amendments to claim 2 are supported at least by page 60, lines 17-19; and page 105, line 1, to page 106, line 5. The amendments to claim 3 are supported at least by page 62, lines 7-10; page 98, lines 1-10; and page 120, lines 12-22.

Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments.

Objections to Claim 8

The Examiner has objected to claim 8 for various informalities. Applicant has amended claim 8 as suggested by the Examiner. As such, the Examiner's objections are obviated and are respectfully requested to be withdrawn.

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35 U.S.C. §102 Rejection of Claims 1-7

The Examiner has rejected claims 1-7 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,410,326 to Goldstein (hereinafter "Goldstein"). Applicant respectfully traverses the rejection.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. The Goldstein reference fails to disclose each and every element of the claimed invention, as arranged in claim 1.

Specifically, the Goldstein reference fails to teach or suggest at least "means to scale and reposition at least some of the demultiplexed video;" and "wherein at least one of the plurality of menus comprises the scaled and repositioned video;" as recited in independent claim 1 as amended.

The Goldstein reference discloses a "universal remote control device which is programmed to operate a variety of consumer products" (Abstract). Specifically, Goldstein reference discloses (emphasis added below):

"A sync separator 146 is shown which will provide timing pulses to a 512K frame grabber 147. The frame grabber 147 will identify the frames of video data being sent as text or graphic material. A video graphics generator 148 operates from the video text recovered by the frame grabber 147. The recovered video text is summed with descrambled video in video summer 149." (Column 17, lines 13-19)

Thus, the Goldstein reference discloses summing video text with descrambled video via a video summer. However, the Goldstein reference does not teach or suggest a means to scale and reposition demultiplexed video, or that at least one menu comprises the scaled and repositioned video.

Thus, the Goldstein reference fails to teach or suggest each and every element of the Applicant's claimed invention. As such, Applicant submits that independent claim 1 is not anticipated by Goldstein and is patentable under 35 U.S.C. §102. Moreover, claims 2-7 depend from independent claim 1, and as such are patentable at least for the same reasons as discussed in regards to claim 1.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

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35 U.S.C. §102 Rejection of Claims 22 and 23

The Examiner has rejected claims 22 and 23 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker"). Applicant respectfully traverses the rejection.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. The Baker reference fails to disclose each and every element of the claimed invention, as arranged in claims 22 and 23.

Specifically, the Banker reference fails to teach or suggest at least "means to scale and reposition at least some of the demultiplexed video;" and "wherein at least one of the plurality of menus comprises the scaled and repositioned video;" as recited in independent claim 22 as amended, and as substantially similarly recited in independent claim 23 as amended.

The Banker reference discloses an "[a]pparatus for providing a user friendly interface to a subscription television terminal comprises a key pad arranged into a plurality of key groupings and an on-screen display controller for generating a plurality of screens for display on an associated television receiver" (abstract). Specifically, the Banker reference discloses (emphasis added below):

"There are two modes of on-screen display. The first mode is a plain background mode and the second mode is an overlay mode. In the first mode, characters appear on a solid background. This mode is preferably used for message OSD's, for example, those represented in FIG. 11. In the second mode, the characters are overlaid on the video pattern from descrambling circuit 304 which is input to CVIN of on-screen display control circuit 306. The second mode may be used, for example, to display time, channel number, and a channel identifier as a subscriber tunes to different channels. Channel identifiers are described in commonly assigned copending application Ser. No. 07/800,002, entitled "Method and Apparatus for Displaying Channel Identification Information" filed Nov. 29, 1991 and incorporated herein by reference. It will be apparent that a system operator may utilize either mode to display information to subscribers and the present invention is not limited to categorizing which information is presented on a solid background or is overlaid onto a video signal." (Column 12, line 62, to column 13, line 13)

Thus, the Banker reference discloses overlaying characters on a video pattern.

However, the Banker reference does not teach or suggest a means to scale and

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reposition demultiplexed video, or that at least one menu comprises the scaled and repositioned video.

Thus, the Banker reference fails to teach or suggest each and every element of the Applicant's claimed invention. Accordingly, Applicant submits that independent claims 22 and 23 are not anticipated by the Banker reference and are patentable under 35 U.S.C. §102.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 8-21, 24 and 25

The Examiner has rejected claims 8-21, 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson"). Applicant respectfully traverses the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. The Banker and Gibson references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

Specifically, the Banker and Gibson references fail to teach or suggest at least the "means to scale and reposition at least some of the demultiplexed video;" and an electronic program guide comprising "a plurality of menus, wherein at least one of the menus comprises the demultiplexed video, graphics and text, and wherein at least one of the menus comprises the scaled and repositioned video;" as recited in claim 8 as amended.

As substantially similarly discussed above in regards to the 35 U.S.C. §102 rejection of claims 22 and 23, the Banker reference discloses overlaying characters on a video pattern. However, the Banker reference does not teach or suggest a means to scale and reposition demultiplexed video, or that at least one menu comprises the scaled and repositioned video.

The Gibson reference fails to bridge the substantial gap between the Banker reference and Applicant's invention. In particular, Gibson discloses a "method and system in a data processing system for selectively associating stored data with an

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animated element within a multimedia presentation in a data processing system" (abstract). However, the Gibson reference is not analogous art with regards to the present invention. Specifically, the Gibson reference "relates in general to improve data processing system" (Background of the Invention, Technical Field, column 1, lines 8-9). Thus, the Gibson reference pertains to a data processing system, and more specifically, as depicted in figure 1 of the Gibson reference, to a personal computer. Thus, the general field of the subject matter of the disclosure of the Gibson reference is not sufficiently close to the general field of the subject matter of the present invention, e.g., aspects of television program delivery systems and set-top terminals, as to be considered appropriate for use in the general field of the present invention by one of ordinary skill in the art. Thus, the Gibson reference cannot properly be used in the 35 U.S.C. §103 rejection of claims 8-21, 24 and 25.

Furthermore, the Gibson reference also does not teach or suggest a means to scale and reposition demultiplexed video, or that at least one menu comprises the scaled and repositioned video.

Thus, the Banker and Gibson references fail to teach or suggest the Applicants claimed invention as a whole. As such, Applicant's independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson. Moreover, independent claim 23 contains substantially similar limitations as discussed above in regards to claim 8, and as such is also patentable under 35 U.S.C. §103(a) over Banker in view of Gibson. Furthermore, claims 9-21, 24 and 25 depend, directly or indirectly from independent claims 8 and 23, while adding additional elements. Therefore, claims 9-21, 24 and 25 are also non-obvious and patentable over Banker in view of Gibson under §103 for at least the same reasons that claims 8 and 23 are patentable over Banker in view of Gibson under §103.

Therefore, Applicant respectfully requests that the Examiner's rejection of claims 8-21, 24 and 25 under 35 U.S.C. §103(a) be withdrawn.

Official Notices

The Examiner has taken Official Notice at least with respect to claims 14, 19 and 21. The Applicant respectfully traverses each Official Notice taken by the Examiner. The Applicant respectfully submits that each Official Notice is erroneous at least

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because the claim limitations which are rejected using the Official Notice are believed to be not well known at least within the context of the independent claims from which these limitations depend.

For example, the Official Notice with respect to claim 14 is erroneous at least because "wherein the submenus are displayed in a video window in a scaled-down program video format" is believed to be not well known at least within the context of the independent claim from which this limitation depends. The Official Notice with respect to claim 19 is erroneous at least because "wherein the overlay menu is generated by the set top terminal using data received during a vertical blanking interval" is believed to be not well known at least within the context of the independent claim from which this limitation depends. The Official Notice with respect to claim 21 is erroneous at least because "wherein the logo is displayed for fifteen seconds during a plurality of ten-minute segments of the program" is believed to be not well known at least within the context of the independent claim from which this limitation depends.

The Examiner is respectfully requested to provide documentary evidence to substantiate each Official Notice (see MPEP 2144.03(C)). Without this documentary evidence, the Applicant respectfully submits that the Official Notices must be withdrawn.

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CONCLUSION

Thus, Applicant submits that none of the claims, presently in the application, are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi, at (732) 383-1405, or Eamon J. Wall, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 2/28/06

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808